

2002/0051796, paragraph 2). Further, in one of its embodiment, the cosmetic device may be prepared extemporaneously by the user (see US 2002/0051796, paragraph 37).

Therefore, it is evident to one of ordinary skill in the art from the reading of the specification that the invention encompasses the provision, to a user, of a solution according to the invention with a cosmetic device under the form of a patch, to be impregnated by the user immediately prior use.

This part of the invention, fully described in the instant specification (see, for example, US 2002/0051796, paragraphs 2, 35-37), is implicitly a kit.

Withdrawal of the Section 112, first paragraph, rejection of claim 28 is requested.

The Section 112, second paragraph, rejection of claims 4, 7-9, 15, 17-26 and 28 is traversed. Reconsideration and withdrawal of the rejection are requested as the applicants believe the metes and bounds of the claimed invention will be appreciated by one of ordinary skill in the art. Consideration of the following in this regard is requested.

The applicants submit that the instant specification provides sufficient basis for the exclusion of "substantial" amount of water from the solution in accordance with the presently claimed invention and that the inclusion of substantial amounts of water would materially affect the characteristics of the claimed invention, which require the presence of a solution.

Firstly, the Examiner is requested to appreciate that a solution, to one of ordinary skill in the art, describes a homogenous mixture of molecules (see attached page 1090 of the Dictionary of Science and Technology, T.C. Collocott (Ed.), W & R Chambers, London England (1971)).

The self-adhesive hydrophobic polymer forms with the organic solvent as a solution because of the interaction between the molecules of solvent and hydrophobic polymer. It is known that a hydrophobic compound does not engage interactions with water. Consequently, one of ordinary skill in the art will appreciate that the introduction of water in a solution according to the invention will result in the loss of homogeneity owing to the appearance of two phases, one aqueous, and the other comprising the organic solvent with the hydrophobic polymer. The claimed requirement for a solution will be negatively impacted and impossible to obtain in the presence of substantial amounts of water.

Furthermore, the solution in accordance with the instant invention has to evaporate at room temperature once applied onto a support (see attached US 2002/0051796, paragraphs 14, 37-38). This evaporation has to be fast, given the cosmetic device may be prepared with the solution just prior to use (see US 2002/0051796, paragraph 37).

One of ordinary skill will appreciate that water does not evaporate rapidly at room temperature. Therefore, it will be clear to one of ordinary skill in the art that a substantial amount of water in a solution according to the invention will deprive the solution of the ability to quickly evaporate at room temperature.

In addition, the fact that the solution may contain water-soluble or water-absorbing agents does not imply that such agents are effectively solubilized within the solution. To the contrary, the instant specification indicates that such agents, when present, are in a dispersed state (see attached US 2002/0051796, paragraphs 27, 31-32).

Finally, the amount of water which will be substantial, in the sense of a negative impact on the properties of the claimed invention, will be determinable by one of ordinary skill with, at most, a reasonable amount of experimentation.

Withdrawal of the Section 112, second paragraph, rejection of claims 4, 7-9, 15, 17-26 and 28 is requested.

The Section 103 rejection of claims 4, 7-9, 15, 17-22, 25, 26 and 28 over Higo (WO 96/16642) and Hori (U.S. Patent No. 4,500,683), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing comments.

The current independent claim 18, for example, recites *inter alia*, the presence of "20 to 60% by weight at least one self-adhesive hydrophobic polymer which is of linear structure, non-unique, non-water soluble and is selected from copolymers of the acrylic/vinyl type, said hydrophobic copolymer consisting of units derived from monomers selected from C₁-C₂₀ alkylacrylates, vinylacetate and acrylic acid".

According to the specification of the instant application, the use of a particular hydrophobic polymer in the solution for the preparation of a cosmetic device in accordance with the invention allows the cosmetic device to instantaneously release active substance, with a simultaneous cleansing action, while also having excellent self-adhesiveness (see attached US 2002/0051796, paragraphs 2-3, 10).

The skilled person in the art would not have found incentive from the cited art to combine the teaching of Hori et al. with the teaching of Higo et al. because the application of Hori et al. does not mention nor suggest that the hydrophobic polymers described herein would be usable for manufacturing a patch type device endowed with

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the properties of instantaneous releasing of active substance with simultaneous
cleansing action, associated with excellent self-adhesiveness properties.

Consequently, contrary to the opinion of the Examiner, the presently claimed
invention would not have been obvious from the combination of cited art.

Withdrawal of the Section 103 rejection is requested.

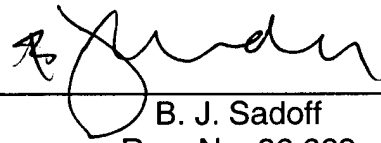
The claims are submitted to be in condition for allowance a Notice to that effect is
requested.

The Examiner is requested to contact the undersigned if anything further is
required in this regard.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



B. J. Sadoff
Reg. No. 36,663

BJS:pp
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

EDITOR T. C. COLLOCOTT M.A.

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W. & R. Chambers Ltd
11 Thistle Street Edinburgh EH2 1DG
6 Dean Street London W1V 6LD

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